

**OCT 27 2005****CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS****NOT FOR PUBLICATION****UNITED STATES COURT OF APPEALS****FOR THE NINTH CIRCUIT**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

V.

DAVID AARON LUTHER,

Defendant - Appellant.

No. 04-50097

D.C. No. CR-03-00050-VAP-01

MEMORANDUM<sup>\*</sup>

Appeal from the United States District Court  
for the Central District of California  
Virginia A. Phillips, District Judge, Presiding

Submitted October 11, 2005<sup>\*\*</sup>

Before: T.G. NELSON, WARDLAW and TALLMAN, Circuit Judges.

David Aaron Luther appeals his 51-month sentence imposed following a guilty plea conviction for distribution of child pornography in violation of 18 U.S.C. § 2252A(a)(2)(A).

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<sup>\*</sup> This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

<sup>\*\*</sup> This panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

We dismiss in light of the valid appeal waiver. *See United States v. Nguyen*, 235 F.3d 1179, 1182 (9th Cir. 2000) (stating that an appeal waiver is valid when it is entered into knowingly and voluntarily); *see also United States v. Cardenas*, 405 F.3d 1046, 1048 (9th Cir. 2005) (holding that the changes in sentencing law imposed by *United States v. Booker*, 125 S. Ct. 738 (2005), did not render waiver of appeal involuntary and unknowing).

**DISMISSED.**